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4 OYSTER OPTICS, LLC,
5 Plaintiff,
6 v.
7 CIENA CORPORATION,
8 Defendant.

9 Case No. [17-cv-05920-JSW](#)
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**ORDER DENYING AS MOOT
PORTIONS OF MOTIONS FOR
SUMMARY JUDGMENT AND
DAUBERT MOTIONS**

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13 Re: Dkt. Nos. 177-4 (178), 177-8 (180),
14 181, 184-3 (183), 186-2 (185)¹
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18 Plaintiff Oyster Optics LLC (“Oyster”) and Defendant Ciena Corporation (“Ciena”) have
19 filed motions for summary judgment that raise a variety of issues. They also filed motions to
20 strike expert testimony pursuant to Federal Rule of Evidence 702 and *Daubert v. Merrell Dow,*
21 *Pharmaceuticals, Inc.*, 509 U.S. 579 (1993). This Order will be the first in a series of orders
22 addressing those motions.

23 After the parties filed the motions, Oyster withdrew claims based on U.S. Patent No.
24 8,913,898 (the “’898 Patent”). Accordingly, the Court DENIES AS MOOT the portions of
25 motions for summary judgment and the portions of the *Daubert* motions that address the ’898
26 Patent.

27 In addition, Ciena withdrew its affirmative defenses based on prosecution history estoppel,
28 laches, acquiescence, and equitable estoppel. Accordingly, the Court DENIES AS MOOT the
portions of Oyster’s motion for summary judgment on those issues.

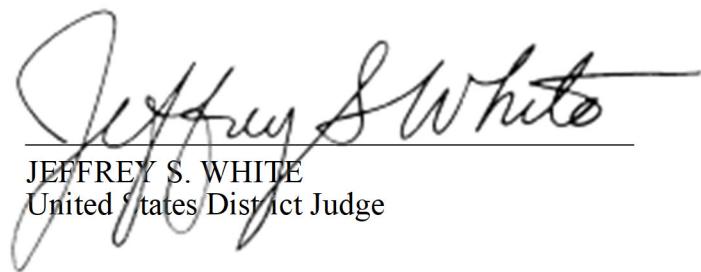
Finally, the parties resolved most of the issues raised by Oyster’s motion to strike the
opinions of Ciena’s expert, Dr. George Papen. Accordingly, Court DENIES, IN PART, AS

¹ The docket numbers in parentheses are redacted versions of motions filed under seal.

1 MOOT Oyster's motion to strike and will address the motion to strike Dr. Papen's testimony
2 regarding lack of enablement in a separate Order.

3 **IT IS SO ORDERED.**

4 Dated: October 19, 2023



Jeffrey S. White

5 JEFFREY S. WHITE
6 United States District Judge
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